

405 KAR 7:100. Notice of citizen suits.

RELATES TO: KRS 350.250

STATUTORY AUTHORITY: KRS 350.020, 350.028, 350.250, 350.465

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and administrative regulations pertaining to surface coal mining and reclamation operations. This administrative regulation pertains to suits brought by citizens pursuant to KRS 350.250 and delineates the procedural requirements of notice to the cabinet, including notice, service of notice, sufficient pleadings, necessary allegations, specific allegations to be contained on the notice, and identifying information about the person sending the notice.

Section 1. Notice of Citizen Suits. (1) A person who intends to initiate a civil action on his or her own behalf under KRS 350.250 or other statutory provision authorizing such an action shall give notice of intent to do so, in accordance with this administrative regulation.

(2) Notice shall be given by certified mail to the secretary in all cases and to the Attorney General as provided in CR 4.04(6).

(3) Notice shall be given by certified mail to the alleged violator, if the complaint alleges a violation of KRS Chapter 350 or any administrative regulation, order, or permit issued under KRS Chapter 350.

(4) Service of notice under this administrative regulation is complete upon mailing to the last known address of the person being notified.

(5) A person giving notice regarding an alleged violation shall state, to the extent known:

(a) Sufficient information to identify the provision of KRS Chapter 350, administrative regulation, order, or permit allegedly violated;

(b) The act or omission alleged to constitute a violation;

(c) The name, address, and telephone number of the person or persons responsible for the alleged violation;

(d) The date, time, and location of the alleged violation;

(e) The name, address, and telephone number of the person giving notice; and

(f) The name, address, and telephone number of legal counsel, if any, of the person giving notice.

(6) A person giving notice of an alleged failure by the secretary to perform a mandatory act or duty under KRS Chapter 350 shall state, to the extent known:

(a) The provision of KRS Chapter 350 containing the mandatory act or duty allegedly not performed;

(b) Sufficient information to identify the omission alleged to constitute the failure to perform a mandatory act or duty under KRS Chapter 350;

(c) The name, address, and telephone number of the person giving notice; and

(d) The name, address, and telephone number of legal counsel, if any, of the person giving notice. (8 Ky.R. 1482; eff. 1-6-83.)